

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6944**

**BILL NUMBER:** HB 1431

**NOTE PREPARED:** Apr 29, 2005

**BILL AMENDED:** Apr 28, 2005

**SUBJECT:** Clean Water Funding, Agriculture, and wetlands.

**FIRST AUTHOR:** Rep. Friend

**BILL STATUS:** Enrolled

**FIRST SPONSOR:** Sen. Weatherwax

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
X FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Clean Water Indiana.* This bill reduces the amount that is annually appropriated from the Cigarette Tax Fund to the Department of Natural Resources (DNR) from 1/3 to 1/6 of the money in the fund. The bill annually deposits 1/6 of the money in the Cigarette Tax Fund to the Clean Water Indiana (CWI) Fund.

*Wetlands.* The bill provides that an exempt isolated wetland may be an isolated wetland that is located on land: (1) subject to regulation under United States Department of Agriculture wetland conservation programs, including Swampbuster and the Wetlands Reserve Program, because of voluntary enrollment in a federal farm program; and (2) used for agricultural or other purposes allowed under the programs. It provides that a wetland that is created or restored as a water of the United States may be used, as an alternative to the creation or restoration of an isolated wetland, as compensatory mitigation.

*The Barn.* The bill provides that the staff of the Center for Agricultural Science and Heritage (The Barn) are employees of the State Fair Commission and that the Barn ceases to be a body corporate and politic. It provides that the Commission pay the operating expenses of the Barn from the funds of the Commission and that real property may not be held in the name of the Barn. It revises the term of an individual on the board of trustees of the Barn to four years and limits years of service in a 12 year period. It authorizes the Barn director to hire staff and delegate authority. The bill repeals and relocates definitions pertaining to the Barn. It makes conforming amendments.

*Dairy Industry Development Board.* It provides that the board instead of the Treasurer of State has custody of money received as assessments under the Dairy Industry Development Law. It requires the Board to

establish a fund controlled by the board in which to deposit assessments. The bill requires the Board to invest the money as other public funds are invested. It appropriates the money in the Dairy Industry Development Fund on June 30, 2005, to the Board. It requires the Board to submit its independent audit to the State Board of Accounts and the Department of Agriculture. It repeals the Dairy Industry Development Fund.

**Effective Date:** July 1, 2005.

**Explanation of State Expenditures:** *Clean Water Indiana.* Revenue and distributions of the Cigarette Tax Fund as well as estimates that would have resulted under the proposal are listed below.

<b>Cigarette Tax Fund Revenues and Distributions (Current and Proposed)</b>				
<b>Year</b>	<b>Revenues</b>	<b>Current 1/3 to DNR</b>	<b>Proposed 1/6 to DNR</b>	<b>Proposed 1/6 to Clean Water Indiana</b>
2001	\$27.5 M	\$9.2M	\$4.6M	\$4.6M
2002	\$27.7M	\$9.2M	\$4.6M	\$4.6M
2003	\$27.0M	\$9.0M	\$4.5M	\$4.5M
2004	\$22.6M	\$7.5M	\$3.7M	\$3.7M

For the 2002-2003 biennium, the DNR appropriation from the Cigarette Tax Fund was \$20.8M. (The appropriations differ from actual revenue collections listed above because appropriations were based on revenue forecasts.) Of the total \$20.8M appropriation, about \$11.2M for the biennium, or around \$5.5M a year, was used to fund the Division of Soil Conservation. The remaining \$9.6M was appropriated for preventative maintenance of DNR properties.

For the 2004-2005 biennium, an appropriation of \$15M was made from the Cigarette Tax Fund to the DNR. Of this total, about \$11.3M for the biennium was used to fund the Division of Soil Conservation. The remaining \$3.7M was appropriated for preventative maintenance of DNR properties.

For the past two budget cycles, each year approximately \$920,000 of the Division's funding was distributed to soil and water conservation districts (each receiving around \$10,000), for a total expense of \$1,840,000 for each of the two past bienniums. The DNR Division of Soil Conservation administers the CWI funds under the direction of the State Soil Conservation Board. The Division is solely funded by Cigarette Tax revenue.

The Division of Soil Conservation maintained a staff of 68. The 2005 appropriation for personal services was \$3.65M with \$2M for other operating. Included within the \$2M expense for other operating is the annual \$920,000 in grants to local soil and water conservation districts.

*Background:* In 1999, the General Assembly created CWI to protect and enhance Indiana land, lakes, and rivers by reducing polluted storm water run-off in urban and rural areas from entering surface and ground water. Both rural and urban non-point source pollution include sediment, pathogens, pesticides, and nutrients. The program received no funding for the initial year. In 2001, \$1M from the Build Indiana Fund was appropriated for the program.

From November 2001 through September 2004, CWI projects with cost-sharing/incentive payments to land users have included installing water and sediment control structures, pasture renovations, livestock exclusion fencing, seeding critical areas, and providing for forested riparian buffers, vegetated field borders, and vegetated filter strips, among other projects. Land owners could also rent equipment to apply conservation practices and also receive technical assistance.

*Wetlands: No fiscal Impact.*

*The Barn.* The bill adds the chair or a member of the State Fair Advisory Committee (a legislative committee) as an ex officio member of the State Fair Commission. The legislative member would be entitled to per diem and reimbursement for travel expenses and other expenses incurred in connection with the member's duties. Expenses would be paid from appropriations to the Legislative Services Agency.

*Barn Staff Become Employees of the State Fair Commission.* The bill eliminates provisions that specify that the Barn is a body corporate and politic separate from the state and not a state agency. The staff of the Barn become employees of the State Fair Commission. The Commission is a separate body, corporate and politic. The Commission is not a state agency.

The bill provides that the Barn director may hire staff subject to a budget approved by the trustees and the Commission. The Commission must pay the operating expenses of the Barn from the funds appropriated to the Barn. The trustees may not hold real property in the trustees' name.

The Barn has four staff: an executive director, an executive assistant, an education specialist, and a part-time market master and special event coordinator. The Barn also employs five interns for 100 hours during the summer. Each is paid \$1,000. Total salaries for the Barn staff equaled \$156,975 with benefits equaling \$43,188, for a total of \$200,163. Under the bill, the Barn staff would become employees of the Commission. Hence, the Commission would incur expenses of at least \$200,163 for the first year and thereafter. If the Barn expanded its staff, the Commission expenses would also expand.

According to the Barn income statement for FY 2004, the Barn received total support and revenue of \$1.2M. Of this total, appropriations from the State Fair Commission equaled \$750,000. Revenue from sources other than the Commission equaled \$524,855. The Barn expended \$521,345. The Barn had assets remaining of \$753,509.

*Background:* In CY 2003 the State Fair Commission received \$283,631 in pari-mutuel revenue, \$3.7M in riverboat revenue, and \$2.2M from the state property tax.

*Barn Board of Trustees.* The bill changes the terms of individuals appointed to the Barn Board of Trustees and specifies that the trustees enter into contracts with approval by the Commission. The board of trustees may no longer receive, hold, and expend appropriations made by the General Assembly; lease real property; develop, improve, and maintain property leased or owned by the trustees; or adopt rules. The Commission must approve the trustees' recommendation for the executive director of the Barn. The Commission, as opposed to the trustees, delegates powers to the Barn director.

Currently, there are 17 trustees who do not receive per diem. Eleven members are lay employees. The bill provides per diem for the trustees. Currently, the trustees meet about every other month if necessary and if there is business to conduct. The bill provides that trustees who are not state employees are entitled to per diem and

reimbursement for travel expenses and other expenses incurred in connection with their duties. Each member who is a state employee is entitled to reimbursement for traveling expenses and other expenses incurred. The Commission must adopt a policy for the number of meetings the trustees may hold and payment of per diem and travel expenses for trustees' meetings and during the time of other required activities. This provision will increase expenses for the board of trustees. The impact will depend, in part, on the number of meeting that the Commission authorizes.

*The Barn: Code of Ethics.* The bill provides that the Commission must adopt rules or a policy establishing a code of ethics for employees of the Commission or decide it wishes to be under the jurisdiction and rules adopted by the State Ethics Commission. A code of ethics adopted by rules or policy must be consistent with state law and approved by the Governor. This provision should have no significant fiscal impact.

*Dairy Industry Development Board.* Under existing law, a dairy producer must remit the required assessment to the Dairy Industry Development Board not later than the last day of the month following the month in which the milk is commercially used. The Board remits all assessments to the State Treasurer for deposit in the Indiana Dairy Industry Development Fund. The proposal abolishes the fund and provides that money in the fund on June 30, 2005, is appropriated to the Board. On July 1, 2005, the State Treasurer must transfer all money in the fund and records relating to the fund to the board. The board must deposit the money transferred by the Treasurer in a fund established by the Board. The bill specifies that the Board must administer the fund. The fund is not a part of the State Treasury. The Board must invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments must be deposited in the fund. Money in the fund may be used to jointly sponsor projects with any private or public organization for dairy advertising and promotion; market research; nutrition and product research and development; nutrition and educational programs; and other activities.

The proposal could result in a minor decrease in administrative expenses incurred by the State Treasurer because the State Treasurer will no longer be involved with revenue generated by the assessments. However, the impact is not expected to be significant.

As of June 30, 2004, the fund had a balance of \$325,959.

The bill also requires the Board to provide the results of an independent audit to the State Board of Accounts and the Department of Agriculture. This provision should have no impact.

*Background:* The Dairy Industry Development Law was passed during the 2000 session of the Indiana General Assembly. The law created the Indiana Dairy Industry Development Board and established procedures for selection of board members and board operations. It established an assessment of \$0.10 per hundredweight on all milk produced in Indiana for commercial use. (The U.S. Department of Agriculture no longer collects milk promotion money from dairy producers.) Revenue from the assessments was to be used for dairy advertising and promotion, market research, nutrition, product research and development, nutrition, and educational programs.

The Indiana Dairy Industry Development Board's administrative costs are funded through a checkoff program with Indiana milk producers. State law allows the Board to use up to 5% of the funds received from the producers for administrative charges. The remaining funds are used for milk-related promotion, development, and research. The Board is required to submit an annual report to the Commissioner of Agriculture. State employees do not provide staff support to the Board.

**Explanation of State Revenues:** *Clean Water Indiana.* The state could obtain up to \$8 in federal money for each \$1 state match as a part of the federal Conservation Reserve Enhancement Program (CREP). The USDA administers CREP, which is a voluntary program to make incentive payments to agricultural landowners for installing specific conservation practices. If the state appropriated 1/6 of the Cigarette Tax revenue, or an estimated \$3.7M based on last year's revenue, and if the state received the maximum \$8, the state could receive almost \$30M in federal dollars for the Clean Water Indiana Program.

*Dairy Industry Development Board. See State Expenditures above.*

**Explanation of Local Expenditures:** *Clean Water Indiana.* Several cities spend significant dollars to treat drinking water supplies to remove bacteria and reduce pesticide contamination to acceptable levels. It is possible that local expenditures could be reduced if the CWI program reduced water pollution and/or contamination.

**Explanation of Local Revenues:** *Clean Water Indiana.* Local units could receive additional revenues through the CWI program. Currently, all 92 districts receive a grant of approximately \$10,000 to implement local projects. In FY 2003, \$84M in requests for conservation programs went unfunded.

**State Agencies Affected:** Department of Environmental Management; DNR; Indiana Dairy Industry Development Board; Office of the Commissioner of Agriculture; State Fair Commission.

**Local Agencies Affected:** Soil and Water Conservation Districts.

**Information Sources:** Office of the Commissioner of Agriculture, 317-232-8775; State Auditor's Allotment and Appropriation Trial Balance; IASWCD; DNR.

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